

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**Docket Number (Optional)  
50325-0778

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on 12/06/07Signature /YipingRLiao#60301/Typed or printed  
name Yiping R. LiaoApplication Number  
10/664,264Filed  
09/16/2003First Named Inventor  
Dirk Wertenbruch et al.Art Unit  
2134Examiner  
Ellen C. Tran

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/YipingRLiao#60301/  
Signature☐assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
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12/06/07

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒\*Total of 1 forms are submitted.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Dirk Wertenbruch, et al	)	Confirmation No.: 3449
	)	
Application Serial No.: 10/664,264	)	Examiner: Ellen C. Tran
	)	
Filing Date: September 16, 2003	)	Art Unit: 2134

For: Method and Apparatus for Configuring Network Devices

**Mail Stop AF**  
**Commissioner for Patents**  
**P.O. Box 1450**  
**Alexandria, VA 22313-1450**

**ATTACHEMENT – PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicants are concurrently submitting a Pre-Appeal Brief Request for Review (the “Request”) in response to the Final Office Action mailed August 6, 2007. Applicants are filing a Notice of Appeal with the Request.

The Request does not contain any after-final or proposed amendments.

Currently, Claims 1-41 are pending in this application.

## SUMMARY OF REJECTIONS

Claims 1-41 stand rejected under 35 USC § 103(a) as allegedly unpatentable over Li (U.S. Pat. 6,012,088, hereinafter "*Li*") in view of Fijolek (U.S. Pat. No. 6,351,773, hereinafter "*Fijolek*").

### CLEAR ERROR IN REJECTION OF INDEPENDENT CLAIM 1

The Examiner's rejection of independent Claim 1 is based upon clear error.

Claim 1 recites **"obtaining, using the secondary signaling technology, a unique link identifier that is associated with the network link using the secondary signaling technology"**.

The limitation in independent Claim 1 emphasized above is not met by the cited references for several reasons. These deficiencies have been described in detail in previous communications (see Response to Final Office Action dated October 5, 2007 at pages 2-3). In this request, Applicants focus on one deficiency in the Examiner's rejection of Claim 1 that amounts to clear error.

The Examiner has admitted in the Final Office Action that "obtaining, using the secondary signaling technology, a unique link identifier that is associated with the network link using the secondary signaling technology" is not taught in the *Li* reference.

The *Fijolek* reference does not cure this deficiency. *Fijolek* discloses a method in which a network device establishes a virtual connection with a third network via a downstream communications link with a first network and an upstream communications link with a second network. (*Fijolek* col. 12 ln. 13 to col. 13 ln. 3.) Significantly, *Fijolek* teaches that in order to establish this virtual connection, more than one network interface on the first network may be

suitable for acting as the receiving proxy for the network device; the choice of which one to use is arbitrary and none of the network interfaces are unique. (*Fijolek* col. 12 ln. 57-63) Therefore, *Fijolek* also does not disclose or suggest “obtaining, using the secondary signaling technology, a **unique** link identifier that is associated with the network link using the secondary signaling technology”, as claimed.

Indeed, Final Office Action cited two clearly inapplicable portions from the references as bases for rejecting Claim 1. First, the Final Office Action referred to a telephone number cited in *Li* as a “unique link identifier”, even though *Li* teaches that this is “the local telephone number of a network access server located on the ISP’s network,” which the user dials to connect with the ISP. (*Li* col. 11 ln. 56-60.) Clearly, this is a telephone number that is associated with the ISP, not with the user’s network link. Furthermore, this telephone number cannot be unique, since presumably many users will be dialing the same telephone number for accessing the ISP.

Second, the Final Office Action contended that a database is the claimed signaling technology, and asserted that because *Fijolek* discloses obtaining an identifier from a database, that it therefore also discloses obtaining a unique link identifier from a signaling technology. It is clear error, and not an issue of interpreting a reference, to say that a database is a signaling technology. While a database stores information, a signaling technology conveys and communicates information. No person of ordinary skill in the art would reasonably assert that a database is a “signaling technology”.

Thus, the Examiner’s rejection of Claim 1 based on the *Li* and *Fijolek* references is clearly erroneous and should be withdrawn.

### **OTHER CLAIMS**

The rest of the pending claims in the Application either contain limitations similar to those discussed above with respect to Claim 1, or depend directly or indirectly on claims which contain those limitations. Because each of the dependant claims includes the features of claims upon which they depend, the dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable.

### **CONCLUSION**

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance and that the rejections are clearly erroneous. Therefore, Applicants respectfully request that the Panel direct the Examiner to allow the existing claims.

The fee for a Notice of Appeal is submitted concurrently herewith. Please charge any fee that is missing or insufficient to Deposit Account No. 50-1302.

Respectfully submitted,

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